

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of HD Carrier, LLC for a Certificate of Public Convenience and Necessity to Operate as a Provider of Resold or Limited Facilities-Based Local Exchange and Resold Interexchange Service within the State of California.

Application 15-08-012  
(Filed August 5, 2015)

**DECISION GRANTING HD CARRIER, LLC A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY IN ORDER TO PROVIDE LOCAL EXCHANGE  
AND INTEREXCHANGE SERVICE**

**Summary**

Pursuant to Public Utilities Code § 1001,<sup>1</sup> the Commission grants HD Carrier, LLC (“HD Carrier”) a certificate of public convenience and necessity (CPCN) to provide resold and limited facilities-based local exchange telecommunications services and resold interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs herein below.

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<sup>1</sup> In this decision, all statutory references are to the Public Utilities Code unless otherwise indicated.

## **1. Background**

On August 5, 2015, HD Carrier, a Nevada limited liability company that is authorized to do business in California,<sup>2</sup> filed an application with the California Public Utilities Commission (Commission) for a certificate of public convenience and necessity (CPCN) to provide resold and limited facilities-based local exchange telecommunications services in the service territories currently served by AT&T California (AT&T) and Verizon California Inc. (Verizon), and interexchange service.

HD Carrier's principal place of business is located at 701 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

## **2. Jurisdiction**

Prior to beginning operations or making significant additions to its plants, a public utility must apply to the Commission for permission and receive a CPCN. This procedure helps ensure that no plant facilities are built, or transportation services begun, that the public does not need. While the term "CPCN" is not defined in statute, the Commission has developed broad guidelines and rules based on its discretion in evaluating applications for CPCN.

HD Carrier proposes to provide local exchange telecommunications services to customers including switched access services using its own facilities, and those available from other facilities-based carriers.

Section 216(a) defines "public utility" to include a "telephone corporation," and according to § 234(a), a telephone corporation includes "every corporation or

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<sup>2</sup> According to the Certificate of Status issued by the California Secretary of State on July 2, 2015, HD Carrier is authorized to do business in California and is in good standing.

person owning, controlling, operating, or managing any telephone line for compensation within this state.” Accordingly, HD Carrier is a telephone corporation and a public utility subject to the Commission’s jurisdiction.

### **3. Requirements for CPCNs**

#### **3.1. California Environmental Quality Act (CEQA)**

CEQA requires that the Commission act as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible.<sup>3</sup> Since HD Carrier states that it does not intend to construct any facilities other than equipment to be installed in existing buildings or structures, it can be seen with certainty that there is no possibility that granting this application will have an adverse impact upon the environment. Before it can construct facilities other than equipment to be installed in existing buildings or structures, HD Carrier must file for additional authority, and submit to any necessary CEQA review.

#### **3.2. Financial Qualifications**

Pursuant to Rule 3.1 (g), a CPCN applicant for authority to provide limited-facilities based and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 (or \$25,000 if only resale) cash or cash equivalent to meet its start-up expenses. The applicant must also demonstrate that it has sufficient additional resources to cover all deposits

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<sup>3</sup> See Rule 2.4 of the Commission’s Rules of Practice and Procedures. In this decision, all references to “Rules” are to the “State of California Public Utilities Commission Rules of Practice and Procedure” (Title 20, Division 1, California Code of Regulations) unless otherwise noted.,

required by local exchange carriers and/or interexchange carriers in order to provide proposed services.<sup>4</sup>

In this application for a CPCN, HD Carrier indicated that it intends to interconnect with AT&T and Verizon, and that no deposits are required by AT&T and Verizon for the interconnection service. Even if deposits are required by AT&T and Verizon, HD Carrier demonstrated that it has the funds available for its start-up expenses and deposits, as discussed below.

HD Carrier's financial information provided to the Commission shows that HD Carrier has available at least \$100,000 for its first year of operation following certification. Further, the financial information provided established that HD Carrier has enough cash available to it to fund any deposits that may be required by AT&T and Verizon for its operation following certification. HD Carrier meets the Commission's requirements that a CPCN's applicant has a minimum of \$100,000 in cash or cash equivalent that is reasonably liquid and available to meet its start-up expenses.

### **3.3. Technical Qualifications**

To be granted a CPCN to provide local exchange and interexchange service, an applicant must make a reasonable showing that it has managerial and technical expertise in telecommunications or a related business.<sup>5</sup> In Exhibit H to

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<sup>4</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIECs) is contained in D.91-10-041. Also, *see* Rule 2.3. In addition, the requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in Decision 93-05-010.

<sup>5</sup> See "Rules for Local Exchange Service Competition in California" in D. 95-12-056 (Appendix C, Rule 4.A).

its application, HD Carrier provided biographical information for two key management employees, Josh Lowenthal and Bryan Petersen. On October 29, 2015, HD Carrier timely<sup>6</sup> provided additional information regarding Mr. Lowenthal and Mr. Petersen's previous employments, backgrounds and qualifications in response to the Administrative Law Judge (ALJ)'s October 5, 2015 ruling requesting the information.

Overall, based on its CPCN application and its October 29, 2015 response to the ALJ, HD Carrier demonstrated that it, through both Mr. Lowenthal and Mr. Petersen, has relevant managerial and technical expertise in telecommunications, and sufficient expertise and training to operate as a telecommunications provider.

### **3.4. Tariffs (Detariffed Rates)**

HD Carrier indicated that it intends to offer its retail services on a detariffed basis, and that it will comply with all of the Commission's requirements as contained in General Order (GO) 96-B -Telecommunications Industry Rules (Telecommunications Rules)<sup>7</sup> with regards to the provision of detariffed services. According to the Telecommunications Rules, HD Carrier asserts that it will: 1) post all of its detariffed rates, terms, and conditions of service on an internet site pursuant to Rule 5.2 of GO 96-B; and 2) notify its customers of any service not provided under tariff, of higher rates or charges, of more restrictive terms or conditions, withdrawal of service, or transfer of ownership or customer base pursuant to Rule 5.3 of GO 96-B. Further, HD

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<sup>6</sup> HD Carrier obtained the ALJ permission to file its response beyond the 20 days allowed in the ruling, and accordingly the response was timely.

<sup>7</sup> As authorized in D.07-09-019.

Carrier will post a description of its services and price list on its website, and file an Access Service tariff prior to billing any carriers for Intrastate Switched Access service. Accordingly, HD Carrier contends that its request to provide its retail services on a detariffed basis be granted.

GO 96-B allows the Commission to grant exceptions “from the general requirement ... that a Utility serve its California customers under its filed tariffs,” and such exceptions, allowing the Utility to provide detariffed service, may be granted to a specific Utility or type of Utility, or for specific services offered by the Utility or type of Utility.”<sup>8</sup> Accordingly, the Commission has the discretion to permit HD Carrier to provide its retail services on a detariffed basis and require it to comply with the conditions contained in the GO 96-B with regards to the provision of such detariffed services. HD Carrier’s detariffing request is reasonable and we will grant it.

### **3.5. Map of Service Territory**

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.<sup>9</sup> HD Carrier provided a map of the location of its proposed service territory, in compliance with this requirement as contained in Rule 3.1 (c).

### **3.6. Expected Customer Base**

Rule 3.1 (j) requires CPCN applicants to provide their estimated numbers of customers and their requirements for the first and fifth years of service. HD Carrier provided its estimated customer base for the first and fifth years of

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<sup>8</sup> See GO 96-B, Industry Rule 5, under “Detariffed and Non-tariffed Service.”

<sup>9</sup> D.95-12-056 at Appendix C, Rule 3.1(c).

operation in Exhibit G of its application. Accordingly, HD Carrier complied with this requirement.

### **3.7. Attestation**

The Commission requires CPCN applicants to attest to certain facts discussed immediately herein below.<sup>10</sup> In compliance, HD Carrier attested that no one associated with, or employed by, HD Carrier as an affiliate, officer, director, partner, or owner of more than 10% of HD Carrier was previously associated with a telecommunications carrier that filed for bankruptcy, or which has been sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, or found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers. HD Carrier attests that it, or its affiliate, officer, director, partner, or owner of more than 10% is currently under investigation for similar violations. HD Carrier is in compliance with the requirements of D.13-05-035 and Decision (D.) 95-12-056.

## **4. Requests for Exemptions**

### **4.1. Treatment as a Non-dominant Carrier**

HD Carrier requests that it be treated as a non-dominant interexchange carrier, which would include exemption from the requirements of §§ 816-830 concerning stocks and security, and § 851 concerning the encumbrance and transfer of utility property. The Commission detailed its rules regarding

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<sup>10</sup> See Decision (D.) 13-05-035 and D.95-12-056.

exemption of non-dominant carriers in Decision (D). 85-01-008, and subsequently modified the rules in D.85-07-081 and D.85-11-044. HD Carrier is eligible for treatment as a non-dominant carrier, and the Commission should grant HD Carrier's request for non-dominant interexchange carrier status. HD Carrier qualifies for exemption from the requirements of §§ 816-830 concerning stocks and security, and should be exempted from the requirements of § 851 for the transfer or encumbrance of property when such transfer or encumbrance is to secure its debt. HD Carrier should be required to follow all rules detailed in D.85-01-008, D.85-07-081 and D.85-11-044 regarding non-dominant carriers' exemptions.

#### **4.2. Uniform System of Accounts Requirements**

As permitted in Decision (D.) 99-02-038, HD Carrier requests that it should be exempted from the requirement to maintain its books and records according to the Uniform System of Accounts (USOA).<sup>11</sup> D.99-02-038 relieves NDIECs, non-dominant CLECs<sup>12</sup> or competitive local carriers (CLCs) from certain accounting requirements. According to D.99-02-038:

"CLCs ... and NDIECS which are not part of an ILEC corporate entity should be relieved of the obligation to keep their books and records for their CLC and NDIEC operations in accordance with the USOA, but should still be required to keep their books and records in accordance with GAAP<sup>[13]</sup>."

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<sup>11</sup> USOA was developed by the Federal Communications Commission (FCC) and is set forth in Title 47, Code of Federal Regulations, Part 32. California adopted a version of the FCC's USOA in Order Instituting Investigation 87-02-023.

<sup>12</sup> Competitive Local Exchange Carriers.

<sup>13</sup> "GAAP" – See below.



“Competitive Local Carrier (CLCs) ... and non-dominant interexchange carriers (NDIECs) which are not part of an incumbent local exchange corporate entity are hereby exempted from the requirement to keep their books and records for their CLC and NDIEC operations in accordance with the Uniform System of Accounts (USOA) specified in Title 47, Code of Federal Regulations, Part 32.”

Pursuant to D.99-02-038, the Commission may exempt NDIECs and CLCs that are not part of an incumbent local exchange carrier corporate entity from complying with USOA requirements. In D.99-02-038, the Commission found that the exemption applied to carriers offering local and interexchange services including CLECs, and concluded that the exemption “will not hinder the Commission’s enforcement responsibilities,” because exempted CLCs, NDIECs and CLECs are still required to maintain their books in accordance with the Generally Accepted Accounting Principles (GAAP) and continue to make their accounting records available to the Commission upon demand pursuant to § 581.

Pursuant to D.99-02-038, the Commission may grant HD Carrier relief from the requirement to keep its books of account in conformance with USOA, and require HD Carrier to may maintain its books in accordance with GAAP and comply with § 581 by making its accounting books available to the Commission upon demand.

## **5. Request to File Under Seal**

Pursuant to Rule 11.4 , HD Carrier filed a motion for leave to file under seal: (a) Exhibits E and G to its application; (b) Supplemental information to Exhibits E and G submitted by HD Carrier; and (c) Personal information/data submitted by HD Carrier for its two key employees for the Commission’s

background checks.<sup>14</sup> HD Carrier asserts that the information contained in (a) through (c) herein above is confidential, proprietary and/or sensitive information, and that the disclosure of the information could place HD Carrier at an unfair competitive and business disadvantages.

The Commission has permitted other utilities to file same or similar information under seal in the past, and does not see a reason to deny HD Carrier's request here. Accordingly, HD Carrier's motion to file under seal the information/documents described herein in (a) through (c) is proper, and HD Carrier's motion should be granted pursuant to Rule 11.4.

## **6. Safety Considerations**

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. We feel satisfied that HD Carrier will meet the Commission's minimum safety goals and expectations of CLECs because: (1) HD Carrier has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) HD Carrier is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

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<sup>14</sup> Items 5 (b) and 6 (c) herein were submitted to the Commission by HD Carrier, on October 29, 2015, in response to the ALJ's October 5, 2015 ruling, which requested additional information from HD Carrier regarding its application.

## 7. Conclusion

HD Carrier's application complies with the Commission's requirements for certification as a competitive local exchange and interexchange carrier. The Commission should grant HD Carrier request for a CPCN in order to provide resold and limited facilities-based local exchange telecommunications services in the service territory of AT&T and Verizon, and resold interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs below.

The CPCN granted by this decision provides HD Carrier with certain benefits, and imposes corresponding obligations on HD Carrier. The CPCN allows HD Carrier to operate in the prescribed service territory, request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and receive access to public rights of way in California as set forth in D.98-10-058 and subject to the CEQA requirements set forth in this decision.

In return, HD Carrier is obligated to comply with all applicable Public Utilities Codes, Commission's Rules, General Orders and decisions applicable to telecommunications carriers providing approved services, including but not limited to the consumer protection rules, tariffing, and reporting requirements. In addition, HD Carrier is obligated to pay all Commission prescribed user fees and public purpose program surcharges set forth in the Attachment A of this decision, comply with CEQA and adhere to § 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, [and] as are

necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

#### **8. Categorization and Need for Hearings**

In Resolution ALJ 176-3362 dated August 27, 2015, the Commission preliminarily categorized this application as ratesetting and determined that hearing was not necessary. Based on the record in this application, it is not necessary to disturb the preliminary determination as no protest has been filed to the application and no hearing was requested or made necessary. Accordingly, the preliminary categorization and determination in this application are affirmed.

#### **9. Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested by HD Carrier. Pursuant to § 311(g)(2) and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is deemed waived.

#### **10. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Adeniyi A. Ayoade is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on August 18, 2015.
2. On August 28, 2015, Resolution ALJ 176-3362 preliminarily categorized A.15-08-012 as ratesetting, and the Commission determined that a hearing was not necessary in this proceeding.
3. There have been no protests filed in this proceeding and no hearing was requested or necessary.

4. HD Carrier is a telephone corporation and a public utility as defined in §§ 234(a) and 216(a).

5. HD Carrier meets the requirements for a CPCN to provide resold and limited facilities-based local exchange telecommunications service in the service territories of AT&T and Verizon, and interexchange service in California.

6. HD Carrier has adequate cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses, and cover any deposits that may be required by other telecommunications carriers in order to provide the proposed service.

7. HD Carrier's management possesses sufficient experience, knowledge, and technical expertise needed to provide local exchange services to the public.

8. No one associated with or employed by HD Carrier as an affiliate, officer, director, partner, or owner of more than 10% of HD Carrier was previously associated with a telecommunications carrier that filed for bankruptcy, sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or previously associated with a telecommunication carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, and no one associated with or employed by HD Carrier is currently under investigation for similar violations.

9. HD Carrier complied with the Commission's requirement that each CPCN applicant submits a map of the proposed service area with its application.

10. HD Carrier complied with the Commission's requirement that each CPCN applicant provides an estimate of its customer base for the first and fifth year of operation.

11. It is reasonable to permit HD Carrier to provide its services on a detariffed basis, and to require HD Carrier to comply with the Telecommunications Rules regarding the provision of detariffed services by telephone corporations as contained in GO 96-B and authorized in Decision (D.) 07-09-019.

12. HD Carrier is eligible to be treated as a non-dominant interexchange carrier and should be exempted from the requirements of §§ 816-830 and § 851.

13. Pursuant to D.99-02-038, HD Carrier qualifies for exemption from the requirement to maintain its book in accordance with USOA, as it would be required to maintain its books and records in conformance with GAAP and make its accounting records available to the Commission upon demand pursuant to § 581.

14. HD Carrier's motion to file under seal Exhibits E and G to its application, the supplemental information to Exhibits E and G and the personal information/data submitted by HD Carrier for its two key employees is properly brought under Rule 11.4.

### **Conclusions of Law**

1. HD Carrier should be granted a CPCN to provide resold and limited facilities-based local exchange telecommunications service in the service territories of AT&T and Verizon, and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. HD Carrier should be required to comply with all applicable Commission rules, decisions, General Orders and statutes that pertain to California public utilities and telephone corporations if granted a CPCN.

3. HD Carrier's request to be treated as a non-dominant carrier should be granted pursuant to the Commission's rules and regulations set forth in D.85-01-008, and modified in D.85-07-081 and D.85-11-044. As a non-dominant carrier, HD Carrier should be exempted from the requirements of §§ 816-830 concerning stocks and security, and from § 851 for the transfer or encumbrance of property when such transfer or encumbrance serves to secure its debt.

4. HD Carrier's request to be exempted from the requirement to maintain its books and records in conformance with the Uniform System of Accounts should be granted pursuant to D.99-02-038. As a condition for granting this exemption, HD Carrier should be required to maintain its books and records in accordance with the Generally Accepted Accounting Principles and comply with § 581 regarding Commission's access to its accounting records.

5. HD Carrier should be permitted to provide its services on a detariffed basis pursuant to GO 96-B, and be required to comply with all Telecommunications Rules contained in GO 96-B regarding the provision of detariffed services by telephone corporations.

6. HD Carrier's motion to file the documents/information described in Section 5 of this decision under seal should be granted pursuant to Rule 11.4. Specifically, the Commission should allow HD Carrier to file under seal its Exhibits E and G to its application, the supplemental information to Exhibits E and G and the personal information/data submitted by HD Carrier for its two key employees in response to the ALJ's October 5, 2015 ruling. The documents/information should remain under seal for three years from the date of this decision.

**O R D E R****IT IS ORDERED** that:

1. A Certificate of Public Convenience and Necessity is granted to HD Carrier, LLC to provide resold and limited facilities-based local exchange telecommunications services in the territories of AT&T California and Verizon California Inc., and interexchange service in California, subject to the terms and conditions set forth below.
2. The corporate identification number assigned to HD Carrier, LLC. U-7295-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.
3. The certificate granted by this order will expire if not exercised within 12 months of the effective date of this order.
4. HD Carrier, LLC must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its Certificate of Public Convenience and Necessity authority, HD Carrier, LLC must submit a Tier 1 advice letter to the Commission's Director of Communications, containing a copy of the license holder's executed bond. Thereafter, HD Carrier, LLC must submit a Tier 1 advice letter annually, but not later than March 31, with a copy of the executed bond.
5. HD Carrier, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of



its executed performance bond, and the carrier has not been granted an extension of time by the Communications Division.

6. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments A, B, and C to this decision, HD Carrier, LLC is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

7. HD Carrier, LLC must file, in this docket, a written acceptance of the certificate of public convenience and necessity granted in this proceeding within 30 days of the effective date of this order.

8. HD Carrier, LLC must annually pay the user fee and public purpose surcharges specified in Attachment A. Per the instructions Appendix E to Decision 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. HD Carrier, LLC must pay a minimum user fee of \$100 or 0.18% of gross intrastate revenue, whichever is greater. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

9. Prior to initiating service, HD Carrier, LLC must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

10. Prior to initiating service, HD Carrier, LLC must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be updated if the

name or telephone number changes, or at least annually. This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at: <http://www.cpuc.ca.gov/communications>.

11. HD Carrier, LLC must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

12. HD Carrier, LLC must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment C included herein.

13. HD Carrier, LLC must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar year basis with the information contained in Attachment B to this decision.

14. HD Carrier, LLC's motion to file under seal those documents/information contained in Exhibits E and G to its application, the supplemental information to Exhibits E and G and the personal information/data submitted by HD Carrier, LLC for its two key employees on October 29, 2015 is granted, and these documents and/or information shall remain under seal for three years from the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission's order or the Administrative Law Judge's ruling. If HD Carrier, LLC believes that it is necessary for this information to remain under seal for longer than three years, HD Carrier, LLC may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

15. Pursuant to Decision 99-02-038, HD Carrier, LLC is exempted from the requirement to maintain its book in accordance with the Uniform System of Accounts. HD Carrier, LLC must maintain its accounting books and records in

accordance with the Generally Accepted Accounting Principles and make its accounting records available to the Commission upon demand pursuant to § 581.

16. HD Carrier, LLC's request to be treated as a non-dominant carrier is granted, and HD Carrier, LLC must comply with all Commission's rules and regulations applicable to non-dominant carriers as detailed in Decisions D.85-01-008, D.85-07-081 and D.85-11-044. HD Carrier, LLC is exempt from the requirements of §§ 816-830 concerning stocks and security, and from § 851 for transfers or encumbrances of property in order to secure its debts.

17. HD Carrier, LLC is authorized to offer its services on a detariffed basis and must comply with all GO 96-B requirements, applicable statutes and rules. HD Carrier, LLC must post all detariffed rates, terms, and conditions of service on its internet site, and notify its customers of each service not provided under tariff as required by GO 96-B. HD Carrier, LLC must notify its customers of all higher rates or charges, more restrictive terms or conditions, withdrawal of service, or transfer of ownership or customer base as required by General Order 96-B.

18. Application 15-08-012 is closed.

This order is effective today.

Dated \_\_\_\_\_, 2016, at San Francisco, California.

**ATTACHMENT A****REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. HD Carrier, LLC must file, in this docket with reference to this decision number,<sup>15</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.
2. The license granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.
3. HD Carrier, LLC is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in D.00-10-028 (Appendix E), the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.
  - a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879)<sup>16</sup>;
  - b. The California Relay Service and Communications Devices Fund (§ 2881; D.98-12-073);
  - c. The California High Cost Fund-A (§ 739.3; D.96-10-066, at 3-4, Appendix B, Rule 1.C);
  - d. The California High Cost Fund-B (D.96-10-066, at 191, Appendix B, Rule 6.F therein; D.07-12-054);
  - e. The California Advanced Services Fund (D.07-12-054);
  - f. The California Teleconnect Fund (D.96-10-066, at 88, Appendix B, Rule 8.G).

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<sup>15</sup> Written acceptance filed in this docket does not reopen the proceeding.

<sup>16</sup> In this attachment, all statutory references are to the Public Utilities Code unless otherwise indicated.

- g. The User Fee provided in §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, HD Carrier, LLC must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/General.aspx?id=1124>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/General.aspx?id=1010>. To request a user ID and password for TUFFS online filing and for questions, please e-mail [Telco\\_surcharges@cpuc.ca.gov](mailto:Telco_surcharges@cpuc.ca.gov).
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/General.aspx?id=1009>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

4. HD Carrier, LLC is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the requirements of GO 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. HD Carrier, LLC is a non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirement of GO 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

7. HD Carrier, LLC must file a service area map as part of its initial tariff.

8. HD Carrier, LLC must obtain a performance bond of at least \$25,000 in accordance with D.13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, HD Carrier must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and must submit a Tier-1 advice letter with a copy of the executed bond annually not later than March 31 each year.

9. HD Carrier, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to D.13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Commission's Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

10. Prior to initiating service, HD Carrier, LLC must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. In addition, HD Carrier, LLC must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be updated if the name or telephone number changes, or at least annually. This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at: <http://www.cpuc.ca.gov/communications/>

11. HD Carrier, LLC must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

12. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

13. In the event HD Carrier, LLC's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

14. HD Carrier, LLC must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar year basis with the information contained in Attachment B to this decision.

15. HD Carrier, LLC must file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment C.

16. HD Carrier, LLC must ensure that its employees comply with the provisions of § 2889.5 regarding solicitation of customers.

17. Within 60 days of the effective date of this order, HD Carrier, LLC must comply with § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

18. If HD Carrier, LLC is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in Attachment A, paragraph 2 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division may prepare for Commission's consideration a resolution that revokes HD Carrier, LLC's CPCN.



19. HD Carrier, LLC is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure.

20. HD Carrier, LLC is exempt from the requirements of §§ 816-830 concerning stocks and security.

21. HD Carrier, LLC is exempt from the requirements of § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure its debt.

22. If HD Carrier, LLC decides to discontinue service or file for bankruptcy, it must notify the Commission's Communications Division's Bankruptcy Coordinator immediately upon making such decision to discontinue service or file for bankruptcy.

23. HD Carrier, LLC must serve a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

**(END OF ATTACHMENT A)**

**ATTACHMENT B****ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
  - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
  7. Date operations were begun.
  8. Description of other business activities in which the utility is engaged.
  9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
    - a. Regulated public utility.
    - b. Publicly held corporation.
  10. Balance sheet as of December 31st of the year for which information is submitted.

11. Income statement for California operations for the calendar year for which information is submitted.
12. Cash Flow statement as of December 31<sup>st</sup> of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

**(END OF ATTACHMENT B)**

**ATTACHMENT C****CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

[An original and a machine readable, copy using Microsoft Word and Excel, or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.]

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (California Code of Civil Procedures Section 2015.5) that the annual report is complete and accurate with no material omissions.

**(END OF ATTACHMENT C)**